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## ***WEEE GUIDANCE DOCUMENT***

***Do you want to be compliant with European legislation concerning end of life electrical and electronic equipment?***

***Are you are looking for an easy solution to meet your legal obligations in Europe?***

### **1° There is European legislation**

The EC Directive on Waste from Electrical and Electronic Equipment (WEEE) 2002/96/EC of 27 January 2003 entered into force with its publication in the Official Journal of 13 February 2003 (N° L37). Member States needed to implement this Directive into national law within 18 months (some exceptions are allowed) after its Publication in the Official Journal, therefore by 13 August 2004.

The EC Directive on the Restriction of certain Hazardous Substances of Electrical and Electronic Equipment (RoHS) 2002/95/EC of 27 January 2003 entered into force at the same time. The RoHS Directive will not be explored in this guidance document. Take-back obligations have been imposed by law on manufacturers and importers of electrical and electronic products. Importers and manufacturers are responsible for the take-back and recycling of products discarded by end users.

### **2° But the legislation is different in each member state**

EC directives are not directly applicable to manufacturers: they must first be transposed into national law in every Member State. This area is all the more complex because the WEEE directive comes under Article 175 of the EC Treaty, which allows Member States considerable freedom in their transposition of the EC Directive into national legislation. As a result the various national legislations can differ between Member States.

The WEEE directive has been adopted under Article 175 of the EC Treaty. Its aim is therefore the protection of human health and of the environment; directives under this Article of the EC treaty provide for a “minimum harmonization” measure. In other

words, Member States are allowed to put in place stricter measures to achieve goals if they so wish.

It is therefore in the framework of the national law of each country that the responsibilities and obligations of the manufacturer, the authorities, the distributors, etc, must be addressed. As a consequence producers have to consider the transpositions into national legislation.

**3° In each member state you have two options: submit your individual take-back plan or become a member of a collective take-back system.**

Manufacturers and importers of electrical and electronic appliances are responsible for the take-back and recycling of appliances discarded by consumers. There are two ways to comply with this obligation: become a member of a collective take-back system or to draw up an individual waste management plan and submit it for approval to the various supervising governmental agencies.

*A. Individual take-back plan*

*You (or your national representative) have to consult national legislation in order to write this plan. You can use the published legislation as a starting point but our advice is that you contact the national authorities for more practical information. You may contact your European or national trade/industry association for support.*

*B. Collective take-back system*

*You (or your national representative) have to become member of the different national take-back systems in all Member States. In some Member States these collective take-back systems might not yet be fully operational. There is an overview of all the operational systems on the website of the WEEE Forum: [www.WEEEFORUM.org](http://www.WEEEFORUM.org)*

Manufacturers and importers of electrical and electronic equipment founded these not-for-profit organizations with the support of the national authorities. The manufacturers and importers are managing these collective systems through an industry-led approach.

Take-back obligations have been imposed by law on manufacturers and importers of electrical and electronic devices. Collective take-back systems (within the WEEE Forum) are not-for-profit organizations established by EE industry to organize this obligation. They coordinate the collection and the recycling of WEEE throughout the respective country. They work closely with retail, municipalities, municipal waste associations and used products centers, as well as with companies specialized in the logistics and the environmentally responsible treatment of the discarded appliances.

Collective take back systems will set up a complete system that carries out all following duties:

- Take on the producers' legal obligations
- Manage the data collection and reporting
- Negotiate contracts with operators

- Arrange logistics
- Arrange recycling
- Manage the financing
- Maintain the audit trails

Doing this for many manufacturers and importers together will reduce the costs, compared to individual solutions.

#### **4° Our advice: become a member of the different existing collective WEEE take-back systems.**

Producers are faced with new logistical, technical and administrative tasks. These tasks require specialized knowledge, personnel capacity and financial resources. The most efficient solution is to commission an experienced, external service provider who takes care of all tasks. Take-back of EEE is far more than just a logistical and recycling task. The legislation places very tough demands on industry.

Collective take-back systems take care of the overall practical implementation of the take-back obligation.

Collective take-back systems offer the simplest, most straightforward, and most cost-effective total approach.

Their activities include:

- (i) The organization of the collection of waste electrical and electronic appliances in accordance with the provisions of the legislation,
- (ii) The organization of the processing of the collected waste electrical and electronic Appliances in accordance with the provisions of the legislation,
- (iii) The provision of information to all stakeholders and reporting to all actors Involved in the implementation of the legislation, and
- (iv) Ensuring the monitoring of results set down in the legislation.

No other approach has been so thoroughly developed, nor been subjected to the extensive negotiations and mutual compromises by the diverse array of stakeholders represented. Therefore it is far more feasible to become implemented than any alternative approach (individual take-back plan).

To accomplish this, they collaborate with certified companies or organizations that are selected based on their experience with the environmentally responsible treatment of discarded equipment, efficiency and costs. For consumer products, collection is done in close collaboration with retailers, on the one hand, and municipalities and municipal associations, on the other hand. Special receptacles for WEEE are available to the public at collection facilities. For business products, the scheme controls collections of WEEE under Article 9 of the Directive to ensure that producers only pay for waste related to their supply of new products.

In addition, the systems inform and educate consumers, and support the governments in monitoring the results. It is also charged with providing the public with information on the prevention efforts being made by its members, the manufactures and importers of electrical and electronic appliances.

Dialogue, efficiency, transparency and professionalism are among their core values.

#### **5° How do you join a collective take-back system?**

In principle, each importer or manufacturer of electrical or electronic appliances that produces or imports at least one appliance may join the collective system. Simply conclude an Entry Agreement with the collective system in a given country where you act as a producer or importer of EEE.

As legislation varies according to the Member State concerned, criteria for joining a system differ. Please contact the scheme listed for your Member State for further details.

Usually you simply sign the Entry Agreement with the system, regularly declare the amount of goods marketed in the national market to the collective take-back system or to any 'black box' charged by them that ensures the strictest confidentiality while treating these data, and pay the required contributions to the system on the basis of your (monthly) declarations.

Some collective take-back systems also offer the possibility for the national importer of electrical and electronic appliances to give a mandate to their foreign supplier(s) to fulfill their obligations stemming from the Entry Agreement.

#### **6° What about membership fees?**

The contribution (fee) varies according to the product type in order to guarantee that each product type covers its own costs and that some product categories do not cross-subsidize other product categories.

To fund the take-back operations, all schemes make some form of calculation of market share of the scheme participants. Some systems apply visible fees where customers directly cover the take-back costs, while others have non-visible fees per unit that can be indirectly passed on to customers through the product price. Other models that bill producers in arrears on the actual costs can also affect the sales price. For business products, costs are in some schemes not related to market share but relate more to actual waste collected as a result of the members' supply of new products. In some collective take-back schemes producers can apply for a repayment of fees for products recycled at the company's expense.

The good management of the funds coming from the contributions is fundamental. The collective take-back systems worked on creative ways to manage the funds to assure maximum efficiency, to protect the fund from being raided for other purposes, and to engage stakeholders in realizing the ongoing success of the system.

If, in your capacity as intermediary or retailer, you export appliances for which you have already paid contributions to your national supplier, you can request a refund from the collective system under certain conditions (proof of export).

Refund of contributions is also possible in some systems in the following situations:

- Sale with foreign VAT;
- Defective goods;
- Assembly or processing of new products.

#### **7° Do you want to know more about the business-model of collective take-back systems?**

Collective systems with active stakeholder management, provide a sound basis for moving forward, both at the European and national levels, with an efficient and effective system for collection and recycling of electrical and electronic products.

Collective take-back systems offer the simplest, most straightforward, and most cost effective approach. They provide a predictable source of funds, pays for all returned products, adhere to principles of environmentally sound management, provide convenient collection opportunities, and do not place an extra financial burden on local governments.

The collective systems use every means possible to minimize costs employing competitive contracting for services, working with existing businesses and organizations, stimulating product design improvements to lower recycling costs, encouraging an extensive collection network to improve economies of scale, etc. The underlying principle of collective take-back systems is that the stakeholders in the electronics' chain of commerce should manage the end-of-life system, and that stakeholders' responsibilities should be proportionate to their ability to implement and affect the system.

Collective take-back systems place manufacturers in a key role as the primary managers of the recycling infrastructure through governance of the management entity. Consumers discard their end-of-life products at appropriate collection facilities. Retailers participate in the collection of products. Business end users' requirements are met. Logistic companies and recyclers compete to provide environmentally responsible collection and processing. Government provides leadership by helping assure that all stakeholders perform their duties and the rules are followed. All stakeholders share responsibility to educate and inform the public. Within the collective take-back structure, certain manufacturers should be allowed to benefit from their initiatives to design more easily recycled products and to create internal recycling infrastructures by taking individual responsibility for the collection and recycling of their products. Manufacturers that chose to establish their own collection and recycling systems should be free to do so, and they should be compensated for their actions by the collective take-back system in the same manner as other collectors and recyclers. If their collection and recycling processes are more efficient, the marketplaces will reward them.

However even within the framework of collective take-back systems there are a number of opportunities to enhance manufacturers' responsibilities for end-of-life management and to stimulate improvements in environmental design.

- The European RoHS Directive requires companies to reduce and eliminate a variety of hazardous substances in products.
- The increased flow of information from recyclers to manufacturers through participation in the collective take-back system will enhance the knowledge and sophistication of product designers.

The following key principles are important in order to effectively and efficiently manage the collection, transportation and processing infrastructure:

- services should be provided through competitive contracting
- the number of contracts should not be too large, for the purpose of management effectiveness and to keep administrative cost to a minimum

- all product management services should adhere to high standards of environmental and worker health and safety protection.

*Some thoughts from collective take-back systems on individual systems:*

The idea of individual systems is attractive because it sounds so simple - just make producers responsible for their products. But this approach implies laws, regulations and enforcement that mandate companies to fulfill their obligations. The obligations that must be enforced include that financial obligations are met by all manufacturers, recycling services are environmentally responsible and meet performance targets, and pick-ups from consolidation centers are timely and fairly distributed - the tendency to "cherry pick" shipments from population centers must be controlled.

Governments must ensure that many small and often foreign manufacturers meet their obligations. Enforcement can be expensive, and a lack of enforcement - one of the industry's chief worries - results in an uneven and unfair playing field in the marketplace, allowing free riders to continue to escape any responsibility.

As amounts of historic waste steadily decline, and when all consumer waste put on the market will have financial guarantees, it will be reasonable for producers to make calculations on the actual return share of their branded products. As the actual return share may be less than present market share, due to longevity or market saturation of the products, it would be more equitable to divide costs via return share. This may be done reasonably first through statistical sampling, then through the use of Radio Frequency Identification technologies to recognize specific, manufacturer product models.

## **8° Questions and answers.**

### **Do the products I make or import fall under the scope of this legislation?**

The following 10 categories have been identified in the WEEE directive as belonging to EEE:

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools
7. Toys, leisure and sports equipment
8. Medical devices
9. Monitoring and control instruments
10. Automatic dispensers

In order to assess if a given product falls under the legislation, the transposition of the Directive into national legislation must be checked.

The existing take-back systems have lists of products that they collect and recycle.

### **Do I have to register in every country?**

Registration takes place at individual Member State level in those Member States where the Directive has already been transposed into national legislation. The due date for transposition is 13 August 2004 and the required date for implementation is 13 August 2005, but some Member States might not achieve this deadline. The different existing collective take-back systems seek administrative simplification for their member companies by harmonizing as much as possible the procedure for registration and contracts while respecting at the same time the national differences mainly due to the legislation. Therefore it is still necessary to register in every country and for every product group. The easiest way is to download the various application forms of the existing collective take-back systems which you can easily find on the WEEE Forum website (see above).

No single organization can provide effective European-wide compliance.

**Which countries have already an operational collective WEEE take-back system?**

Austria, Belgium, Netherlands, Norway, Switzerland and Sweden.

**In which countries will a collective WEEE take-back system soon be operational?**

Finland, France, Ireland, Italy, Latvia, Luxembourg, Spain, Czech Republic, Slovakia and United Kingdom.

**Are the existing collective WEEE take-back systems covering all 10 sectors?**

That depends upon the country; you might need to check this while applying for membership at the national collective WEEE take-back systems.

**My company is active in several EEE sectors; do I need to apply for membership with each of the sector solutions in a given country?**

That depends upon the country; in some Member States one collective WEEE take-back-system will cover as much industry sectors as possible, in other countries several Collective WEEE take-back systems will cover various industry sectors.

**Am I fully complying when my company has become a member of one or more collective take-back systems in a given country for the involved EEE products or do I have to fulfill other obligations as well?**

When the collective take-back system is taking over all responsibilities of administration, logistics and recycling from the individual producer or importer of EEE products, the individual company needs to address the financial responsibility in a proper and sound accounting manner. You might need to seek further guidance with your accountant for these matters.

**When a given problem of lack of compliance occurs in a country, who will become finally responsible: the collective take-back system or the individual producer?**

Depending on the legal contracts that should exist between the collective take-back system and your company in a given country, the collective take-back system should

be the sole body reporting to the authorities. Any questions arising from the compliance should therefore be answered by the collective take-back system.

**Can different sectors have different solutions?**

Since the law covers so many different products, collective take-back systems have tailored solutions for each sector, for example fee structures, product range and service level for the on-demand collection. Each sector specifies its own requirements. Dedicated Sector Councils may guide these sector activities.

**How can the system that covers different products and even sectors be fair and just to its members?**

The actual costs for each sector's recovery and special services will be recorded. The common costs (that are small compared to the costs of recovery) will be split. Fees from a specific sector shall be used exclusively to cover the costs of that sector. No sector shall subsidize any other sector, neither short-term nor long-term. How the cost is split inside a sector is up to the individual sector to decide. Therefore it might occur that a company should become member several times with the same collective take-back system because of the multitude of products and therefore sectors covering the take-back of EEE in order to avoid cross subsidizing from one sector to another.

**What happens to old devices that were put on the market many years ago and whose manufacturer possibly no longer exists?**

They can be returned free of charge by consumers just like all other old devices. Take-back obligations will be divided among producers who are active on the national market today (e.g. in proportion to their current national market share). This issue does not apply to producers of business-to-business products in those systems where their obligation is directly related to their supply of a new product.

**How will collective take-back systems minimize costs?**

They will have only a minimal fixed administration. Everything else, such as recovery, logistics, collection and information will be outsourced in open competition. By far the largest cost is the recovery. Here they use open competition in every conceivable way, both inside their respective country and abroad.

**Do the collective take-back systems operate their own treatment facilities?**

For collection, transport, treatment and recycling operations, they will contract with specialized companies.

**How are these collective WEEE take-back systems structured?**

They are non-profit organizations and they are industry driven either supported by individual companies or by the trade association(s) or by a combination of both.

**What does one mean by recycling contribution?**

The recycling contribution is a small amount that the consumer must pay in addition to the purchase price of a new electrical or electronic product, to cover its future recycling cost. This money is used to fund a collection and recycling system



that allows old, discarded devices to be processed in a way that is least harmful to the environment. Retailers are required to take back discarded electrical and electronic goods when consumers buy similar new products from them (so called 1:1 solution). Another option for consumers is to hand in this equipment at the municipal collection facilities. The amount of the recycling contribution will vary per product. Contributions are calculated on the basis of the estimated number of electrical and electronic appliances that will be recovered during the lifetime of that product and can vary from 0.1 euro to 20 euro per unit.

### **What should a consumer do with his old electrical and electronic goods?**

A consumer has four options:

1. If his appliance/product is still operational he may want to take it to a social utility institution.
2. He may drop off his old equipment in a municipal collection facility.
3. When he buys a new electrical or electronic device in most countries, his retailer will take the equivalent old appliance (e.g. a fridge for a fridge). The same applies if his retailer delivers the new equipment to his home.
4. Last but not least he can opt to keep his old equipment, to give it away, or to sell it if it is still operational.

### **What should a retailer do when receiving old electrical and electronic goods?**

The retailer will accept the old EEE when selling a new equivalent product. Having collected a definite amount or number of WEEE he or she will then contact the collective take-back system for collecting the old WEEE or drop the product at a local municipal waste collection point.

### **What happens to the old appliances once they've been collected?**

The scrap devices are taken to processing plants, each with its own field of expertise. The processing plants make sure that the devices are all processed in a way that the maximum amount of base materials can be separated, which can subsequently be recycled. All collected equipment undergoes necessary treatments (e.g. removal of gases and other hazardous components). Recoverable materials, such as iron, copper, aluminum, glass or plastic are set aside to be reused for the production of new goods.

### **What will happen if I do not join a collective WEEE take-back system ?**

Then you must be prepared to show to the authorities that your company can fulfill its obligations in some other way.

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